Testimony supporting House Bills 5078, 5079, 5080
American Friends Service Committee
Michigan Criminal Justice Program
December 2, 2015

The American Friends Service Committee's Michigan Criminal Justice Program has advocated with and for people in Michigan's prisons for over 30 years.

We support House Bills 5078, 5079, 5080 with the hope that these bills will create a meaningful internal MDOC process to review and release medically frail people on parole to nursing care facilities, home hospice, hospice centers, or other placements where a person's medical complexities can be managed with care, compassion and expertise.

We oppose HB 5081 because it is criminalizing general and broad behavior, and we think it could be harmful to citizens, including nursing care workers, who do not know the parole status of an individual.

Two of the major issues we deal with on a daily basis and have testified on throughout the years are access to appropriate health care while incarcerated and the myriad problems that arise for men and women and their families while dealing with complex medical conditions, medical conditions that render a person frail, and end-of-life medical care.

While the potential fiscal savings for the state are of great relevance to this equation, it is important that the legislature has a full picture of the complex systems involved in the caring of people who are medically frail with chronic and/or critical health care issues. The human side of this coin is critical to bring into the analysis. Humane and compassionate care for people who are medically frail should be paramount in our discussion of this issue.

This bill would open up the possibility for people with expensive, chronic, and complicated medical problems to be paroled quickly and without having to navigate the red-tape and costly commutation process.

We will provide a few case examples to demonstrate the pressing need for this bill package.

**Case 1:**
In early 2013, AFSC heard from a long-term prisoner, GP. He had just been diagnosed with motor neuron disease (ALS). We received many of his medical records to confirm his diagnosis and to see if there was talk from medical of putting in for a medical commutation (his ERD was not until 2017 so he would need to be commuted by the governor). He reported to our office in March of 2013 that he would be seeing a specialist at the University of Michigan medical center and that the doctor at the facility indicated that treatment with U of M would be very

expensive and that the doctor would talk with Lansing about a potential medical parole (commutation). He reported at the time: "I am unable to walk long distances without fear of falling, I have lost one tooth and chipped another due to falls on two different occasions. I have lost a considerable amount of weight, I have lost use of my hands to the point that I have to have someone type up this letter. I cannot hold a pen so I have to dictate what I wish to say. I have difficulty pulling, pushing, and turning things. I feel vulnerable because if it were not for my friends I would have trouble defending myself if the need ever arised to do so and in this environment this is not a good thing."

This was in early 2013. We checked to see if the medical parole/commutation process had been initiated in July of 2013. It had not been initiated. Unfortunately, GP stopped communicating with us after that—probably due to the progression of his symptoms. He died, in prison, in September of 2015.

**Case 2:**
BR lived with bone cancer in Michigan's prisons for 2.5 years. He was in prison on a drug offense and an offense related to his drug distribution. He was 19 when he went to prison. He became very sick during the last year of his life and could have potentially qualified for research-based treatment if he could have been medically paroled. As a prisoner he did not qualify for any research related treatments. The MDOC did do their best by him and he was, for a period of time, weekly transported to Karmanos for treatment. These transports were exceedingly costly and very, very painful for BR.

According to AFSC, the MDOC did wait too long to start the medical commutation process. It took months for him to be processed and he lived in agonizing pain. His mother visited him as much as possible, but when a person is that sick, prison is far from the ideal place to live with a complex and painful medical condition. BR had to go through the regular and arduous commutation process. With a medical parole statute his parole could have been expedited. By the time the commutation process was completed and the commutation granted he lived for nine days at Karmanos hospice. The only good thing to come out of this sad, sad story was that his mother was able to have 24 hours access to BR during his final days because he was commuted.

These are just two cases but the following bullet points outline the chronic problems faced by medically frail prisoners are based on these two cases and more that have come across our desks over the years:

- **Security for medically frail prisoners is expensive and can be inhumane:**

  When being moved to U of M or Karmanos for any diagnostic tests or treatments, GP and BR would be ankle and wrist shackled in a van with two correctional officers accompanying. If these prisoners needed to be

admitted, practice is for the prisoner to remain in wrist and ankle shackles while in the hospital bed with two corrections officers stationed in/outside the room. At times in some cases, the treating physician at the hospital has ordered that the shackles be removed. For BR, the weekly transport in the van was sometimes unbearable due to the cancer's deterioration of his bones.

Though we have even had a report from loved ones of a prisoner who was end of life and living only via the assistance of a ventilator that the prisoner remained in wrist and ankle restraints with two officers in the room.

- Two officers present for transport
- Two officers present for hospital admittance to any non-secure hospital—costs the MDOC overtime costs
- Prisoners are shackled during transport and in the hospital bed
- Transport can be very painful

- **Vulnerability for elderly and medically frail prisoners in a regular general population prison:**

As GP explained in his letter to AFSC, he was feeling very vulnerable due to the progression of his disease and his inability to control his body. Prison is a hostile place. There are prisoners living inside who have diseases (mental and physical) that lend them vulnerable or who are elderly and are no longer able to maintain his/hers own safety.

- **Lack of visits for people who need visits the most**

Toward the end of GPs life he may have been moved to McLaren's or Allegiance's secure units due to the nature of the complex care he needed. We have worked with other prisoner's with ALS who ended up in a secure hospital unit that was not Duane Waters (the prison hospital). When a prisoner is admitted to the secure units at either hospital, he is no longer going to get visits. Or, if a prisoner is bed ridden at Duane Waters, he may get a waiver from the warden at the prison for a "death bed" visit for one hour (though Director Washington has granted a few hours longer visits in the past).

In addition, for people who have sudden life events, like mass cardiac arrest that leads to brain deadness, family members will need special permission from the warden to visit the prisoner. These visits must be approved on a daily basis and are usually for one hour. Again, there are two officers present for brain dead prisoners also.

- **Access to compassionate care during a person's final days**

Take a moment to think of how GP might have died in prison in MI. Through the years we have heard from countless prisoners who are simply scared to die alone inside. Dying of ALS is a very slow and difficult way to die if you are surrounded by friends and family in the free world. In a prison hospital or in a secure unit hospital, a dying person is only surrounded by health care staff. There is no such thing as sitting bedside for a death vigil inside a Michigan prison. There was no reason for GP to die in prison. The moment he was diagnosed with ALS, the process to get him medically commuted should have begun. With the passage of these bills medical parole would have expedited his release.

- **Access to the same privileges available at other level II facilities**

For prisoners who are critically and terminally ill, they know that going to DWH means they are going there to die. Once at DWH, prisoners do not have the same privileges they had at their home prison's security level because DWH is a level V prison. This means less store access, less visits, less property, etc.